

**Request for Qualifications
For
Public-Private Partnership
For The
Design, Construction and Financing
Of
Transit-Oriented Development
For The
Wheaton Central Business District**

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Request for Qualifications

Process Overview

Phase 1

1. Issue RFQ with Phase I and Phase II framework -
2. Pre-submittal meeting & optional site tour
3. Deadline for questions
4. Submission deadline
5. Qualification & Selection Committee (QSC) review
6. Short-listing of Teams

Phase 2

1. Deadline for questions
2. Submission deadline
3. Qualifications & Selection Committee (QSC) review
4. Oral interviews
5. Selected Developer conditionally identified by parcel group
6. Letter of Intent (LOI) between Selected Developer and Public Team

Execution Phase

1. Management of Development Planning Process
2. Concept Plan developed and authorized
3. General Development Agreement (GDA)
4. Negotiation of Sales/Lease Agreement(s)
5. Development entitlement process

I. Introduction

The Montgomery County Executive, on behalf of the County Government (“the County”), and in cooperation with Washington Metropolitan Transit Authority (“METRO”), and Maryland-National Capital Park & Planning Commission (“M-NCPPC”), hereafter referred to as “The Public Team”, seeks to enter into a public-private partnership with a qualified developer or development team (“Developer”). The objective of this public-private partnership will be the development of high quality, transit-oriented projects within the Wheaton Central Business District (“CBD”) that are consistent with the Public Team’s objectives of increased density, mixed-use, and appropriate levels of affordable and workforce housing. Interested parties, having the creative vision, demonstrated experience and financial capability to plan, develop, and manage projects of similar type and scope are encouraged to reply to this two-phase Request for Qualifications (“RFQ”). The initial phase of the RFQ will focus on Developer qualifications, experience, financial capability and creative vision. The second phase will “short-list” qualified submissions, and focus on financial capabilities, capacity for land aggregation, and the ability to successfully execute a project from concept to completion.

The Public Team owns or controls ten (10) sites of publicly owned property, which it proposes as part of a public-private partnership for redevelopment of the Wheaton CBD. Some of these properties are contiguous or adjoining to each other, while other properties stand alone. Based on their location within the CBD, as well as their respective relationship to each other, the properties offered have been placed in three separate groupings (A, B, and C) for presentation purposes within this RFQ. Section IV of this RFQ provides detail regarding the sites, their respective ownership, and their grouping. **Developers responding to this RFQ (“Developers”) may express interest in some, all or any of the properties offered.** Should different Developers be selected for different sites, the Public Team, or the respective public entity owning the property, would enter into separate agreements for each Developer selected. An overview of the process is described in Section VII, Development Process Overview. These properties are proposed with the Developer’s understanding that the manner, terms and type of compensation for each property, whether for acquisition or lease, are subject to the policies and procedures of the respective public entity owning that property.

The sites total approximately 11.70 acres, and are comprised of multiple parcels, independently owned by the Public Team members - the County, METRO and M-NCPPC. All of these parcels lie within a 1,200 foot radius of the Wheaton Metro Station, situated at Georgia Avenue and Reedie Drive in Wheaton, Maryland. For a visual orientation, please refer to the aerial photograph found on Page 10 of this RFQ.

Interested parties are encouraged to consider all properties identified within this RFQ as potential development sites, as well as additional privately owned properties the Developer is capable of aggregating. The Public Team will consider submissions for subsets of these sites, as well. Submissions should identify those specific sites of interest. The Developer’s ability to aggregate private properties in relation to these sites of interest

should be indicated as well. It is not necessary that a Developer have sites under contract at the submission stage. Experience in property assemblage and financial commitment are evidence of ability to aggregate.

A Developer's concept proposal for a specific site - or sites - identified in this RFQ should demonstrate a vision that is consistent with, and complementary to, the Public Team's vision and goals for development of the Wheaton Central Business District, as described here and in Section II, Project Goals.

The County, at its sole discretion, reserves the right to (a) cancel this RFQ at any time, (b) select none of the submissions submitted, (c) choose separate developers for individual sites identified within this RFQ.

Submissions in response to Phase I of this Request for Qualifications ("RFQ") are due by Friday, March 19, 2010 by 4:00 p.m., EST.

Upon review of Phase I Submissions, the Public Team will "short-list" the highest rated Developers for continued consideration. Developers selected to participate in Phase II of this RFQ will then be asked to provide a Statement of Qualifications addressing Phase II requirements, as described in Section VIII of this RFQ - Submission Requirements.

The Selected Developer, or Developers (in the case of submissions for different sites) selected through this RFQ will initially work with a planning team comprised of representatives from the County, METRO, M-NCPPC, and Stakeholders, as appropriate to the specific site(s) proposed, to create a Concept Plan. The Concept Plan should address the sites identified for development and demonstrate how proposed development would be compatible with, and help to achieve, Project Goals

The Concept Plan should be consistent with the recommendation of the 1990 Sector Plan for the Wheaton Central Business district and Vicinity, calling for "...mixed use development – residential/office/retail – on and around the Wheaton METRO Station...provid(ing) an opportunity to improve mobility, increase METRO ridership, diminish negative environmental impacts, reduce traffic congestion and increase the diversity of employment opportunities and services in the Wheaton area".

M-NCPPC is currently in the process of revising the 1990 Wheaton CBD Sector Plan. Ongoing discussions with Planning staff during this process continue to affirm expectations for increased levels of transit-oriented development within the Wheaton CBD, including removal of the Retail Preservation Overlay Zone. Concept Plan submissions should not be limited by the Retail Preservation Overlay Zone. Final development plans will have to conform to the updated Sector Plan and zoning that is ultimately adopted.

II. Project Goals

Wheaton should be a destination location for the region that can attract and integrate new development and build on the value of the existing businesses and residential neighborhoods. The ultimate goal of redevelopment of the Wheaton CBD is to create a vibrant community that is economically and environmentally sustainable, where residents want to live, work and play. Project(s) proposed by Developers should:

- Contribute to the overall economic and environmental sustainability of the Wheaton CBD and the greater Wheaton community.
- Create Transit Oriented Development (“TOD” See Appendix A) - a walkable, mixed-use community which reduces auto dependency and enhances/promotes the use of public mass transit services.
- Utilize mixed-use development to achieve a better balance of residential and commercial uses in the CBD.
- Deliver high-quality projects that significantly improve the physical realm of the CBD.
- Provide suitable high-pedestrian traffic connectivity and emphasize street level activity that is safe, secure and appealing.
- Maintain the residential character of neighborhoods abutting the CBD.
- Support land assemblage and block development to create density levels sufficient to justify development costs and create accessible, pedestrian-friendly, smart growth opportunities.
- Allow for the aggregation of open space and amenity space proffers to ensure quality space benefiting the whole community.
- Promote complimentary development that enhances connectivity and greater integration between Westfield Wheaton Shopping Mall and the Wheaton core, with an emphasis on transit accessibility, pedestrian activity and bicycle access.
- Provide a housing mix that includes moderate-income housing, workforce housing and live-work units, such as art studios, to ensure inclusion for all Wheaton residents.
- Create opportunities to help retain and grow viable local small businesses.
- Employ Wheaton’s existing strengths – ethnic diversity, eclectic small businesses and “crossroads” location – as the basis for attracting new businesses and residents.
- Revitalize economic drivers, including night time entertainment, a variety of boutique retail establishments, and restaurants.
- Employ smart growth principles and construct LEED-certified buildings

III. Context

Wheaton and Vicinity

Wheaton is an unincorporated, urbanized area situated in the southeastern portion of Montgomery County. It lies less than 2 miles north of the National Capital Beltway (Interstate 495), 3.6 miles north of downtown Silver Spring, and is 4.1 miles north of the District of Columbia. Wheaton is 6.3 miles south of Rockville, the County seat. Less than 1 mile to the west is the incorporated Town of Kensington, and the unincorporated area of Four Corners lies 3.2 miles to the east. Three State highways transect the Wheaton CBD: MD 97 (Georgia Avenue), MD 193 (University Boulevard) and MD 586 (Veirs Mill Road). These three roadways create the boundary for the core of the Wheaton Central Business District (CBD). Available data from the Maryland State Highway Administration (2007) shows average traffic volume from the intersections of these roadways to be 41,280 vehicles per day. Wheaton is an important transit center. The Wheaton Metrorail station averages approximately 9,500 entries and exits per day. It is a 30 minute trip to downtown Washington. There are approximately 950 daily bus trips with approximately 9,600 people boarding and alighting from Metrobuses each day. When Ride-On bus passengers are included that number rises to 13,000.

The Wheaton CBD is maintained by the Wheaton Urban District. The Urban District provides special services to the CBD to ensure that downtown Wheaton is maintained in a clean, safe and attractive manner to promote a vibrant social and business environment, and long-term economic viability. These services include security, streetscape maintenance, tree maintenance, sidewalk repairs, marketing, and events.

The Wheaton CBD is also one of Montgomery County's Parking Lot Districts. This designation insures adequate, convenient levels of public parking through on-street, surface and structured parking throughout the CBD.

The County has made a number of improvements to the Wheaton CBD. Over 50,160 square feet of new sidewalks, including lighting and landscaping/plantings, have been constructed along Grandview Avenue, Ennalls Avenue, Fern Street and Georgia Avenue. Additional streetscaping is planned for Fern Street as well as a portion of University Boulevard, from Veirs Mill Road to Georgia Avenue. A pedestrian walkway was recently constructed, connecting Georgia Avenue and Triangle Lane. Façade improvements have included multiple properties on Grandview Avenue, Georgia Avenue and Ennalls Avenue. Additional façade improvements are planned for Fern Street, Elkin Street and the south side of University Boulevard, between Veirs Mill Road and Georgia Avenue.

No public schools are located within the boundaries of the Central Business District (CBD). However, four high schools, four middle schools and six elementary schools are within a 2-mile radius of its center. The 536-acre Wheaton Regional Park, is less than two miles northwest of the Wheaton CBD. The park also contains Brookside Gardens, whose award-winning horticultural displays attract over 400,000 people annually.

County government facilities are both within, and proximate, to the Wheaton CBD. The Mid-County Regional Services Center is situated in the CBD, one block north of the intersection of Georgia Avenue and Veirs Mill Road. The Wheaton Library, one of the most active in the County's library system, and the Wheaton Community Center, operated by the Department of Recreation, are adjacent to each other on Georgia Avenue. These lie just one block from the Wheaton CBD's northern boundary.

IV. Publicly-Owned Properties for Development

Public Properties Offered					
Group	Site No.*	Address	Property Size sf/acre	Current Zoning	Ownership
Group A			114,139 sf/2.62 acres		
Parking Lot # 17	6	Price Ave	26,147 sf/.60 acres	CBD-3	Montgomery County
Garage # 45	7	Fern St	58,338 sf/1.34 acres	CBD-2	Montgomery County
Veterans' Park	8	Reedie Dr	29,654 sf/.68 acres	CBD-2	M-NCPPC
Group B			349,576 sf/8.02 acres		
Parking Lot # 13	2	11143 Grandview Ave	75,625 sf/1.74 acres	CBD-2	Montgomery County
Parking Lot # 34	3	2506 Ennalls Ave	20,492 sf/.47 acres	CBD-2	Montgomery County
Parking Lot # 33	4	2630 W University Blvd	16,800 sf/.38 acres	CBD-2	Montgomery County
Regional Service Ctr.	1	2424 Reedie Dr	15,367 sf/.35 acres	CBD-2	Montgomery County
Busbays	9	11114 Georgia Ave	136,983 sf/3.14 acres	CBD-2	METRO
METRO Garage	10	Veirs Mill Rd	84,309 sf/1.94 acres	C-2	METRO
Group C			46,173 sf/1.06 acres		
Parking Lot # 14	5	2402 Blueridge Ave	46,173 sf/1.06 acres	CBD-2	Montgomery County

* Property may be comprised of multiple parcels under same ownership.

The ten (10) public properties in the table above are grouped, based on their location within the Central Business District, as well as their respective relationship to each other. Please refer to the aerial photograph on Page 10, illustrating the location of these public properties within the Wheaton CBD. Developers are encouraged to incorporate any and all of these properties in their respective submissions that will reflect their capacity and capability for mixed-use, transit-oriented development. Although no privately owned properties are offered as part of this RFQ, the Developer's ability and capacity to

aggregate and integrate privately owned properties adjacent, contiguous, or proximate to the publicly owned properties in response to this RFQ will be evaluated.

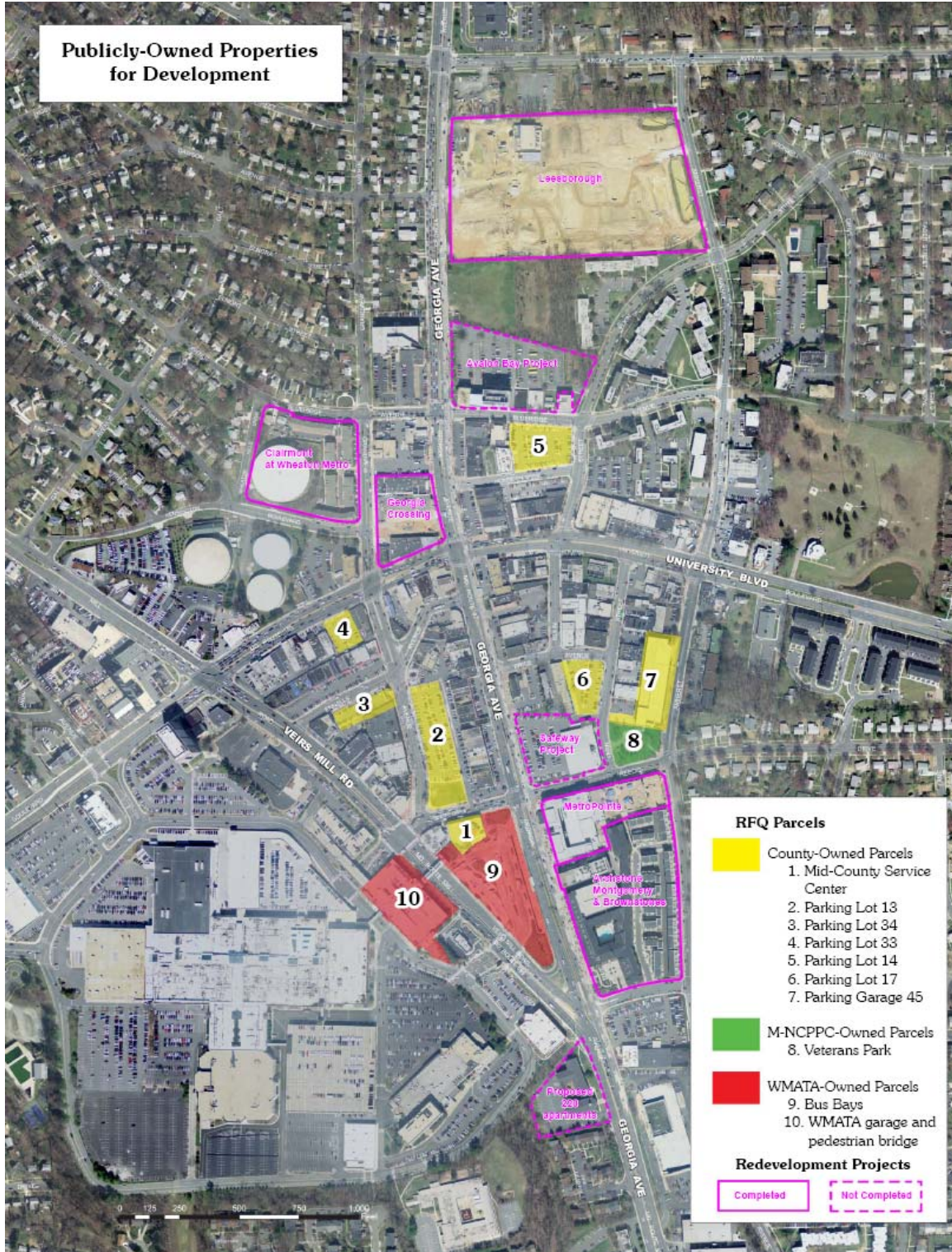
Zoning

All parcels identified are zoned CBD-2, with the exception of Parcels 6 and 10, which are CBD-3 and C-2, respectively. Additionally, all parcels in Groups A, B and C are currently situated within the Retail Preservation Overlay Zone.

M-NCPPC is currently in the process of updating the Wheaton CBD Sector Plan. Note that M-NCPPC may eliminate the Retail Preservation Overlay Zone, and replace it with zoning more conducive to mixed-use and transit-oriented development. Concept Plan submissions should not be limited by the Retail Preservation Overlay Zone. Final development plans will have to conform to the updated Sector Plan and zoning that is ultimately adopted.

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Aerial View of Properties Proposed for Development



V. Structures/Amenities For Consideration

1. County Properties: The County, as part of the development process, contemplates certain facilities to support government or civic functions within a redeveloped CBD. The scope, funding and timing of such facilities will depend upon an array of factors, including: the Concept Plan process, which, as envisioned by this RFQ, includes Stakeholder involvement, the County's Capital Improvement Program budget process, bonding authority, and the support of elected officials. The following are considerations:

Town Square: The concept of a town square evolved as the result of an extensive visioning study in 2000, led by the National Historic Trust's Main Street Program. While the nature and location of a town square or public open space is yet to be determined, past scenarios utilize a portion of Parking Lot 13 (bordered on three sides by Grandview Avenue, Reddie Drive, and Triangle Lane). A town square would create an open, central gathering space, establishing a sense of place and defining the character of the urban core. Rockville Town Square is an example. However, a town square in Wheaton should have its own attributes and unique design, which would evolve through the Concept Plan Process.

Ennalls Avenue/Price Avenue Connection: A key component of Transit Oriented Development is short blocks that provide improved pedestrian and vehicle connectivity. Short blocks encourage walking, provide small area vehicle access, and calm traffic speeds. Currently, Ennalls Avenue runs east-west between Veirs Mill Road and Georgia Avenue, and Price Avenue runs east-west between Fern Street and Georgia Avenue. By connecting Ennalls and Price Avenues through an intersection at Georgia Avenue, these elements of connectivity would be advanced. Additionally, such access would help support mixed-use development at the north end of Parking Lot 13 and allow consideration of public acquisition for this public improvement.

Mid-County Regional Services Center: Currently, the County operates the Mid-County Regional Service Center, adjacent to the METRO bus bays. This 23,000 square foot facility includes: Mid County Services Center offices, Wheaton Urban District staff, Proyecto Salud, United Ministries, HHS Women's Cancer Control Program, HHS Health Promotions & Substance Abuse Prevention Program, the Conflict Resolution Center of Montgomery County, HHS Adult Behavioral Health Program, and Wheaton Redevelopment Program. As this property is proposed as part of this RFQ, an appropriate replacement location(s) for these functions and services should be addressed through the Concept Plan development process.

Civic Presence: The County desires to maintain and expand its civic presence in the Wheaton CBD. Both Silver Spring and Bethesda have multiple civic functions supporting the vitality of those urban centers. Through the Concept Plan process, civic functions should be considered with County staff and community members. Options, in addition to a Town Square, may include: an arts center, a museum, a theatre, a venue for live music or the performing arts.

County Parking Facilities: Public Parking in the Wheaton CBD is managed through the County's Department of Transportation as a Parking Lot District ("PLD"). Property parcels for five (5) surface parking lots and one (1) parking garage within the Wheaton Parking Lot District are included in this RFQ.

If PLD land is incorporated into public/private mixed-use development, County law has specific requirements for compensation.. (See Montgomery County Code, Chapter 60, Section 2b). If existing PLD facilities redevelop for a different use, appropriate levels of replacement parking/capacity will need to be addressed by the Developer, the County, or both. The specific nature of ownership rights for such replacement parking would need to be negotiated between the Developer and the County.

2. METRO Properties:

METRO Bus Bay site: This 132,083 sq. ft. site is situated at what might be a prime site for intensive redevelopment. This site, combined with the County's Regional Service Center site, can support nearly 600,000 sq. ft. of development. The METRO bus bay site provides 14 bus bays for METRO and Ride On bus operations. On a typical weekday, some 13,000 bus trip boardings occur at this site. METRO is conducting a station access study to determine if changes/additions are needed at the station. It is expected to be completed by the Spring of 2010. Should this site be proposed for development, the Developer, in cooperation with METRO and the County, must develop a plan for interim operations prior to site construction. A permanent replacement facility must be rebuilt in close proximity to the Metrorail entrance, though not necessarily in the current location.

METRO Parking Garage and Pedestrian Bridge: The Wheaton METRO Parking garage is located on the southbound side of Veirs Mill Road and is situated directly across from the METRO Bus Bays. The garage, situated on a 1.8 acre parcel, is a four story brick-clad structure containing 977 parking spaces. The parking garage is connected to Bus Bay site by a 145-foot long, 22-foot wide, covered pedestrian bridge that spans Veirs Mill Road. The bridge is accessed from the second level of the garage (east side). By virtue of an agreement between METRO and the Wheaton Plaza Regional Shopping Center, LLP, pedestrian connectivity to Westfield Wheaton Shopping Mall is also provided through the west side of the garage, on the 3rd level.

METRO is not seeking to replace this facility. However, as the garage is underutilized and design changes may be considered, opportunities may exist to better integrate these facilities with transit oriented development and Westfield Mall. METRO would require the replacement of these existing uses at appropriate levels of functionality. Any and all costs associated with the replacement of existing METRO facilities would be borne by the Developer and completed according to METRO specifications and requirements.

Note: Any METRO facilities displaced by development will have to be incorporated in new development. For further details, see Appendix C, METRO Mandatory Requirements.

3. M-NCPPC Property

Veterans Park: Wheaton Veterans Urban Park (.68 acres) is located at 11200 Amherst Avenue in Wheaton, at the intersection of Amherst Avenue and Reddie Drive. The park is bounded by Amherst Avenue to the east, Fern Street to the west, Reddie Drive to the south and County Parking Garage # 45 to the north. The park lies one block east of the Wheaton Metro Station, located at Georgia Avenue and Reddie Drive and due to its location, provides potential opportunity for transit oriented development. M-NCPPC requires replacement of the park at equal value or use, were the park to be developed for other purposes. While Veterans Park provides attractively landscaped open space on the perimeter of the Wheaton CBD, it is under-utilized in its current location. The Public Team expects that any RFQ Submission considering this site for redevelopment would identify a replacement location for the park that enhances its impact upon the public realm and, through its design, would pay appropriate homage to our Veterans and the services that they have provided to our Country, State and County.

VI. Economic Incentives

Wheaton is designated as a Priority Funding Area by the Maryland Department of Housing and Community Development, is a State designated Arts & Entertainment District, and has been re-designated by the State as an Enterprise Zone. Recently, Wheaton was identified as one of 15 “Smart Sites” by the State of Maryland. These and other programs from Federal, State and County Agencies may provide opportunities to enhance or strengthen economic benefits for proposed projects in the Wheaton CBD.

Depending on the characteristics and uses of proposed development projects, many of these programs may be combined into a package of incentives. Participation in any of these programs would be subject to meeting their respective eligibility requirements. Detailed descriptions of these programs and their eligibility requirements can be found in Appendix B of this RFQ.

VII. Development Process Overview

The process of responding to this RFQ and becoming a Selected Developer is given in Sections VIII-XIII of this document. A brief summary of the development process under this RFQ, beginning with the determination of a Selected Developer to obtaining entitlements, is given below:

1. Letter of Intent
2. Manage Development Planning Process
3. Concept Plan Approved
4. General Development Agreement
5. Property Sale and/or lease agreement(s)
6. Obtain Entitlements

A more detailed explanation of the process follows. Once the Public Team has tentatively selected a developer, that developer will negotiate a Letter of Intent (“LOI”) with the Public Team for the properties on which it has proposed. At this point in the development process, the Public Team may consist of all, some, or one of the public members identified in Section I of this RFQ, depending on which properties are the subject of a Developer response. The LOI will outline the responsibilities of each party, moving forward. The LOI is the document that recognizes the selection of a developer as a Selected Developer (“Selected Developer” See Appendix A).

Approval of the LOI will be subject to the organizational processes and procedures of the specific Public Team members that are party to the LOI. Both Metro and M-NCPPC, for example, will require the approval of their respective Boards if their properties are included. For the County, approval by the Chief Administrative Officer (or designee) will be required.

Some of the issues to be addressed in the LOI are as follows:

The Selected Developer, in coordination with the Public Team will be responsible for conducting the process that results in the creation of a Concept Plan (“Concept Plan”), the execution of a General Development Agreement (“GDA”) and other agreements for the implementation of the Concept Plan and the transfer of property rights. The Selected Developer will undertake Stakeholder outreach, Public Team-Developer coordination, site analysis, concept development, access analysis, architectural concept development, land aggregation, user/tenant outreach, financial planning, and other functions as judged advantageous by the Selected Developer and the Public Team. The Public Team will provide ongoing assistance in coordinating stakeholder outreach efforts and technical support as the Public Team deems appropriate.

While the specific development steps will be negotiated between the Selected Developer and the Public Team, the following broad steps are anticipated:

1. Develop and execute community outreach and Stakeholder coordination strategy.
2. Conduct site analysis of developable parcels both publicly and privately owned.
3. Identify potential users/tenants.
4. Identify site plan elements including building footprints, METRO facilities (if any), access, parking, loading, and areas to be dedicated for public use and/or public facilities.
5. Develop architectural design concepts
6. Review plans with participants in proposed projects and obtain consensus
7. Obtain approval of final Concept Plan - As to County properties, the Concept Plan must be approved by the County’s Chief Administrative Officer or his designee. As to METRO properties, the Concept Plan must be approved by the METRO Board.

The LOI is non-binding and does not confer property rights or any other rights. The subsequent process to confer property rights is outlined below. Once the Concept Plan is agreed upon, the parties will negotiate a GDA, subject to consummation of satisfactory METRO Property Sale and/or lease agreement(s) and subject to all applicable Public Team property disposition requirements (“GDA Contingencies”). The GDA is intended as a multi-party agreement among the Selected Developer and those members of the Public Team participating in projects proposed by the Concept Plan. The GDA will specify:

1. The properties to be included
2. Whether they will be sold or leased (land leased)
3. Phasing of Development
4. The timing and methodology of compensation to the applicable members of the Public Team.
5. A plan for the relocation or reconfiguration of METRO facilities, and if applicable, a concept plan for the temporary relocation of METRO facilities and their interim operation during construction of the permanent METRO facilities.
6. A plan for the replacement of Veterans Park, if this site is proposed for redevelopment within the Concept Plan. Replacement would require land of at least equivalent area and of equal recreation or open space value.
7. Perpetual easements or property rights of Public Team members to be reserved for the operation and maintenance of any permanent facilities (for example, the Metrobus facility), as well as easements or other rights to be reserved for the operation and maintenance of any interim facilities.
8. Future responsibilities of Public Team members. For example, if the Price/Ennalls connection (See Section V, Structures/Amenities To Be Considered) were part of the Concept Plan, the GDA would specify the County’s responsibilities in achieving that connection.
9. GDA Contingencies

Note that METRO has certain mandatory requirements, which are given in Appendix C to this document, including METRO’s Design Criteria and Adjacent Construction manuals.

If no Metro properties are included, the GDA would not include METRO. If no County properties were included, the GDA would not include the County except as to its agreement to plans for temporary relocation of METRO facilities, if required. The GDA must be approved by the METRO Board, if METRO properties are included, and by the Chief Administrative Officer (or designee) if County properties are included or if there are other County obligations.

Subsequent to the GDA, the Selected Developer would negotiate a sales or lease agreement with the respective owner of each property to be acquired, as part of implementing the Concept Plan. Members of the Public Team have agreed to obtain a third party appraisal or appraisals to value their properties based upon highest and best use. Public Team members are required to obtain fair market value in disposing of their

properties and all PLD properties are subject to the same fair market value requirement. This appraisal(s) shall be used by the members of the Public Team in negotiating compensation for its property or properties. There may be offsets to these values. As to METRO, if its bus bay property is to be re-developed, METRO typically asks the appraiser to adjust downward the appraised value of its property to reflect the cost of replacing the existing facility. The sales or lease agreements would also detail reservations or easements to be created, and if applicable provide for interim relocation of Public Team member facilities. Each applicable Public Team member would have to formally approve any sales or lease agreements; and would be subject to the Public Team applicable property disposition requirements.

IMPORTANT NOTE AS TO METRO: Approval of the Concept Plan and GDA by the METRO Board are in the nature of interim approvals. METRO is not bound to any of the provisions of the Concept Plan and GDA unless and until the METRO Board approves the sales or lease agreement(s)

For METRO, there are two additional steps in the process after the GDA is approved. A public hearing is required to obtain public comment on the relocation or redesign of any METRO facilities (the “Compact Public Hearing”). The staff report summarizing the comments from the Compact Public Hearing must be approved by the METRO Board. The transaction also must be approved by the Federal Transit Administration (“FTA”). METRO Board approval of the Compact Public Hearing Staff Report and FTA approval are the final steps of the METRO process to transfer property rights. Each agreement is contingent on the entire Metro process being completed. It is then the Selected Developer’s responsibility to create detailed plans and obtain County entitlements as it would for any project. METRO retains the right to review and approve subsequent plans to ensure they are consistent with the conceptual plans, and to approve any plans related to its facilities. METRO is focused on the site plan and its facilities, and does not review plans for the interior of any private developments. If METRO properties are included, the County’s obligations under the GDA will be contingent upon satisfactory completion of these METRO requirements and all applicable property disposition requirements. The County is not bound until METRO is bound, and all applicable property disposition requirements have been satisfied.

NOTE: The participation of the Public Team in the property disposition or leasing process is limited to its capacity as a property owner (not as a Public Authority) and does not relieve the Private Developer of compliance with all applicable laws and governmental requirements.

VIII. Submission Requirements

FAILURE OF A DEVELOPER TO SUBMIT ALL REQUIRED INFORMATION MAY RENDER THE SUBMISSION INCOMPLETE AND INELIGIBLE FOR FURTHER CONSIDERATION.

As stated in Section I, this RFQ consists of **two phases**. All Developers responding to this RFQ should provide a Statement of Qualifications addressing Phase I requirements listed below in this Section. Subject to the evaluation criteria and process described in Section X, the Public Team will “short-list” the highest rated Developers for continued consideration. Developers selected to participate in Phase II of this RFQ should then provide a Statement of Qualifications addressing Phase II requirements, also described below in this Section. Phase II will include an interview with the selected Developers that are short-listed.

Phase I Submissions must include the following elements:

A. Cover: The cover should contain the RFQ title, the Developer’s name and the submission date.

B. Transmittal Letter: The transmittal letter should not exceed two pages and should contain:

1. The name, title and contact information of the individual or individuals with authority to bind the Developer. This person should also sign the transmittal letter.
2. The address and legal form of the Developer. Provide complete information that explains the relationship of the members of the Project Team (“Project Team” is defined later in this section, under Phase I Submission Requirements.) and their respective roles and contributions. An organization chart would be an appropriate attachment to the cover letter.
3. A statement by the Developer acknowledging receipt of the Request for Qualifications in its entirety, inclusive of each and all appendices and addendums that the Public Team may issue as part of this RFQ.
4. A statement that if selected, the Developer will negotiate in good faith with the Public Team, or its respective members, as appropriate to the sites involved.

The transmittal letter must also include a statement that the firm is not in arrears in the payment of any obligation due and owing to the State of Maryland, Montgomery County and METRO, including tax payments and employee benefits, and that it shall not become so during the term of the agreement if selected; a statement that the Proposal is valid for a minimum of 120 days from the date of submission, and a statement that the firm grants to the Public Team a non-exclusive right to use, or cause others to use the contents of its Proposal, or any part thereof, for any purpose.

C. Statement of Qualifications: Section II of this RFQ contains a list of 12 project goals. The Public Team seeks a Developer with solid experience and capability, proven through a record of delivering projects that reflect many, if not all of these goals. Developers should include a summary that demonstrates the Developer's understanding of the requirements of this RFQ and METRO's Joint Development Policies and Guidelines, as well as a description of how the Developer proposes to integrate the physical, managerial and financial components required to ensure the success of its Development Plan.

The Public Team, or its individual members, reserves the right, in its sole and absolute discretion, to reject any and all Submissions received in response to this RFQ and to cancel this RFQ at any time, for any or no reason, prior to entering into any binding agreements. Responses to this RFQ vest no legal or binding rights in the Developers nor does it or is it intended to impose any legally binding obligations upon the County, METRO, M-NCPPC or any member, officials or employees of the Public Team unless and until final legal binding agreements are negotiated and executed. The Public Team further reserves the right to request clarification of information provided in Submissions as a response to this RFQ without changing the terms of this RFQ.

ADDITIONAL PHASE I SUBMISSION REQUIREMENTS

A. Background Information, Project Information and Past Performance: It is essential that the Public Team fully understand the experience and capabilities of the Project Team. The Project Team is defined as the lead developer plus any other developers (the "Project Team Developers") and key team members such as architects, engineers, economists, contractors, bankers, etc. who are critical for a complete reliable response to this RFQ (collectively, the "Project Team"). Provide complete information that explains the relationship among all team members and their respective roles and contributions.

1. Provide a description of the Project Team Developers' organizational structure, identification of principals, and length of time in business. An organization chart would be an appropriate attachment.
2. Provide a summary of the Project Team Developers' experience in managing large, complex projects that required interaction with a broad range of interested parties from both the public and private sectors. Identify the type(s) of financial support employed for these projects, as well as the Project Team Developers' experience with any additional financial mechanisms. Describe the Project Team Developers' experience and expertise in residential, commercial, retail and mixed-use projects, and their particular area of specialization. For responses including retail and/or office uses, include contact information for at least two major tenant references that are large "anchor-tenants" in projects developed and managed by the Project Team Developers. For completed public/private projects, comparable to the

Project(s) envisioned in this RFQ, provide specific contact information for public agency references.

3. Identify the existing commitments of the Project Team to other projects, identified by the number and type of projects (including proposed development projects), expected duration, and dollar value of each project.
4. Highlight projects where members of the Project Team have previously collaborated. Projects included for reference should be described only once, and the description should include: project size - by total land and building area; project scope; location; development value; project length from inception to completion; roles of Project Team member(s) during project execution, and client references, including authorization to contact those references provided. For each reference, indicate the contact person's role in the completed project and the time period of his or her involvement. In addition, photos, site plans, and renderings would be helpful.
5. Provide the following information for each key member of the Project Team:
 - a. Description of experience within the most recent ten-year period related to TOD projects in urban settings.
 - b. Demonstrated experience in completing projects - on budget and on schedule - of the scale and complexity envisioned in this RFQ.
 - c. Demonstrated experience, expertise and creativity with sale/leasebacks, capitalized leases, or other structures that allow the developer to obtain private capital, and enable institutional or public agency owners to realize the value of owned property.
 - d. Extent of the experience of specific individuals on the Developer's proposed Project Team in public/private development projects, especially TOD.
 - e. Demonstrated ability in structuring public-private development projects in a manner that secures private capital to pay for public improvements.
 - f. Description of previous development projects or planning efforts related to Wheaton
6. Resumes of all key Project Team members to be involved in the Project are required and should include: relevant experience, details regarding the specific role proposed for the Project, education, and professional licensing. Discuss how the key members of the Project Team would manage this project in addition to their existing projects.
7. Developers should identify, with specificity, any other relevant organization, consultant or other available resources that will be committed to the Project. While completed projects are preferred, relevant

“in process” projects which are in the construction phase or later, may be included. Developers are advised to include a statement that the Project will conform to all applicable Federal, State and County laws and ordinances, and that they accept responsibility to ensure compliance with applicable Federal, State and County laws.

B. Experience and Capacity for Land Aggregation: The Developer’s experience in aggregating properties for development, transaction types utilized, and specific examples of each, are to be provided. Developers should list and describe any existing or intended investment in, ownership of, or control of properties in the Wheaton CBD that would be aggregated and incorporated into the development as described in this RFQ. The amount of equity funds members of the Project Team can commit to land aggregation should also be described.

C. Conceptual Approach & Methodology: Developers are to submit a conceptual approach and methodology for project implementation. This narrative should describe the Developer’s methods and approach for engaging both the Public Team and Wheaton’s Stakeholders to create a feasible, high-quality, mixed-use, infill development that advances the goals described in this RFQ. This should be addressed from an overview perspective rather than project-specific proposal, as the Developer(s) selected through this RFQ will work with the Public Team and Wheaton Stakeholders to ultimately develop viable projects for the Wheaton CBD.

The Developer should discuss its approach and methods to ensure a project design that creates high-quality places, includes design excellence, is sensitive to adjacent neighborhoods, includes “green building”/LEED-Certified (Silver or higher) design and construction methods for the site and individual buildings, and is sensitive to the needs of special populations, such as the disabled. The narrative must include information regarding an approach and methods to involve the Stakeholders in the creation of the Concept Plan and an approach to predevelopment activities, phasing, construction, marketing, lease-up, and operations.

D. Vision: Developers should provide a brief statement of their own specific concept, how it meets the Public Team’s Project Goals (see Section II), and how it integrates and improves the Wheaton CBD. This statement should reflect the Developer’s own creative capacity and an understanding of Wheaton’s potential. The statement should provide a vision for Wheaton that bridges its present and future while reflecting its unique attributes.

E. Retail Business Retention: Since the founding of the Wheaton Redevelopment Program in 2000, the community, through a number of visioning exercises, has expressed the need for the retention of viable, locally owned small businesses as an element of downtown Wheaton’s redevelopment and revitalization. Montgomery County government, as well as the other members of the Public Team, hold this expectation as well. Developers will provide their organization’s experience, expertise and success in retaining/attracting viable small businesses as a component

of their development projects and identify those specific projects that demonstrate these capabilities.

F. Acknowledgement of Mandatory Requirements: Include a statement that acknowledges the mandatory requirements stated later in this Section VIII. Describe any experience at complying with similar requirements in other projects.

G. Time Line: A general estimated time line for Project implementation is to be included.

PHASE II SUBMISSION REQUIREMENTS

All Developers selected to proceed to Phase II must provide a thoughtful development concept and explanation of key factors and milestones for its successful implementation. This should not, however, be a full-scale project proposal.

A. Project Vision: Submissions to Phase II will require additional detail to information initially provided in response to Items D and E of Phase I Submission Requirements, and should identify the following:

1. Milestones necessary to implement the vision (pre-development land use, approvals, etc);
2. The approach for working with Stakeholders, including the Wheaton community members;
3. Identify market potential by property type (retail, multifamily, etc.) in Wheaton and present a development approach that would capture that market potential;
4. A proposed or preferred ownership structure;
6. A statement indicating whether the proposed development is contingent on any County or State government support or action (e.g., regulation changes, public infrastructure improvements, public funding-grants, loans, etc.) and a listing of these contingencies.

B. Financial Capability: Given the complexity of public-private projects, it is necessary for the Public Team to understand the Developer's financial capability to undertake and successfully complete the Project.

1. Describe the Project Team Developers' experience in obtaining private equity and debt for public-private developments similar in scale to the Site(s) described in this RFQ.
2. Indicate the source(s) of both debt and equity financing for each referenced project stated above and describe the Developer's commitment on a long-term basis and capability to provide capital for this Project.
3. Indicate the amount of immediately available financial resources to fund the costs associated with creation of the Concept Plan, negotiation of

development agreements, obtaining entitlements and other approvals, and other predevelopment activities.

4. Under separate cover and marked "Confidential" (Folder 2), the Lead Developer and any Project Team Developer having an equity stake of 20 % or greater in the business entity to be formed for this Project, should provide current Interim statements and audited Annual financial statements for their respective firm's last three fiscal years. Project Team Developers with an equity interest of less than 20 %, or having no equity stake at all, must provide current Interim and Review statements for their respective firm's last three fiscal years. An appropriately authorized officer/managing member of each firm providing financial information should certify that their respective statements present an accurate representation of that firm's financial condition as of the date of the statements.

- C. Developer Commitment and Duration:** The Developer should indicate its investment strategy for projects developed in the Wheaton CBD, articulating the manner, level of commitment, and duration of involvement in such projects.
- D. References:** Provide the names, phone numbers and email addresses of two institutional lender references, two financial partner references, and two major tenant references (tenant references as to office or retail projects). Additionally, letters to these references, authorizing their response to inquiries from the Public Team are to be provided as well.
- E. Additional Information:** The Public Team reserves the right to request additional information during the RFQ review period.

IX. Conditions, Limitations and Mandatory Requirements

The Public Team reserves the right to accept any Submission deemed to be in its best interest. A Submission in response to this RFQ does not constitute a contract and does not indicate or otherwise reflect a commitment of any kind on behalf of the Public Team or impose any binding obligations on the Public Team or grant any rights to the Developer. Furthermore, this RFQ does not represent a commitment or offer by the Public Team to enter into an agreement with a Developer or to pay any costs incurred in the preparation of a Submission to this RFQ. Furthermore, this RFQ does not commit the Public Team to pay for costs incurred in the negotiation or other work in preparation of, or related to, a final agreement between the Selected Developer and the Public Team.

Any commitment made by the Montgomery County as part of the Public Team will be subject to the appropriation of funds by the Montgomery County Council to carry out any such commitments and the execution of a contract acceptable to the County.

Any development that impacts public transit or parkland will require replacement at the expense of the Developer and will be subject to the respective governing agency's design and construction requirements.

Questions regarding the RFQ should be directed, via email, to:

WheatonRFQ@montgomerycountymd.gov

The deadline for questions will be Friday, February 12, 2010 at 4:00 P.M.

All questions, and the responses from the Public Team, will be posted on the Montgomery County Department of General Services' website at: <http://www.montgomerycountymd.gov/content/DGS/DBDC/dgs-neighborhood-projects-page.asp> Responses to all questions will be posted by 2:00 P.M. on Wednesday, February 17, 2010.

The Submissions, and any information made a part of the Submissions, will become a part of the project's official files. The Public Team is not obligated to return the Submissions to the Developers. This RFQ and the selected Developer's response to this RFQ may, by reference, become a part of any formal agreement between the Developer and the Public Team.

The Public Team, or its individual members, reserves the right, in its sole and absolute discretion, to reject any and all Submissions received in response to this RFQ and to cancel this RFQ at any time, for any or no reason, prior to entering into a formal contract. The Public Team further reserves the right to request clarification of information provided in Submissions submitted in response to this RFQ without changing the terms of this RFQ.

If a Developer contends that any part of its Submission is proprietary or confidential and, therefore, is limited to disclosure under the Maryland Public Information Act, MD Code Ann. State Gov't §§10-611 *et seq.* (the "MPIA"), the Developer must identify all information that is confidential or proprietary and provide justification for why such materials should not be disclosed by the County under the MPIA. METRO's Public Access to Records and Privacy policies applies as well. The County, as custodian of Submissions submitted in response to this RFQ, reserves the right to determine whether or not material deemed proprietary or confidential by the Developer is, in fact, proprietary or confidential as required by the MPIA, or if the MPIA permits nondisclosure. The County will favor disclosure of all Submissions in response to any request for disclosure made under the MPIA.

Developers must familiarize themselves with the properties included in Section IV of this RFQ and form their own opinions as to suitability for any proposed development on any or all of these sites. The Public Team makes no representations as to these sites. The Public Team, or its individual members, assumes no responsibility for site conditions including, but not limited to, environmental and soil conditions on these sites.

Developers are responsible for their own background investigation as to restrictions, if any, bearing upon title, zoning, subdivision, transportation, developability, utilities, and physical conditions at these sites. Soils tests and other invasive tests may not be conducted upon any of these sites during the RFQ stage.

As to County projects, Developers are subject to the provisions of law pertaining to ethics in public contracting including but not limited to the provisions of Montgomery County Code Chapter 11B, Article XII and the applicable provisions of Chapter 19A. As to METRO properties, as a condition to becoming the Selected Developer, each Developer shall self-certify as to its integrity and business ethics using the form attached hereto in Appendix E. A Developer that fails to execute this certification or fails to provide adequate information for METRO to evaluate its inability to certify to the statements in this certification may be ineligible for award.

Mandatory Requirements: The goal of this Request for Qualifications is the selection of a Developer that would enter into a contractual agreement with some or all of the respective members of the Public Team. Based upon the public entities who are party to the contract, the Developer will be required to comply with some or all following:

- **Prevailing Wage Law** - Beginning with contracts executed on July 1, 2009, the [Prevailing Wage Law](#) is patterned after the Federal Davis-Bacon and State of Maryland's prevailing wage laws. It requires the prevailing wage be paid to workers on County financed construction contracts of \$500,000 or greater. The [prevailing wage rate](#) is the rate paid for comparable work in the private sector within the County. The rates are calculated by the State, based on surveys of construction company employers. Information on the prevailing wage law for the State of Maryland can be viewed at: <http://dllr.state.md.us/labor/prev.html>
- **Minority, Female and Disable Owned Businesses (MFD) Program** - The County encourages contracting and development opportunities with business interests reflecting its diverse population and interests. Therefore, the County encourages Developers to include, where possible, meaningful minority, female and disabled ("MFD") participation in the proposed project. This participation could include, but not be limited to, the Developer teaming with MFD developers, builders and/or subcontractors for the proposed project.
- **Local Small Business Reserve Program (LSBRP)** - This program was created under Montgomery County Code, sections [11B-17A;11B-65](#) through [11B-70](#) and [Executive Regulation 21-05AM](#), to enhance the competitiveness of Montgomery County-based small businesses by creating separately-defined County procurement for local small businesses. Beginning **January 1, 2006**, registered local small businesses will be able to bid for select Montgomery County contracts with other businesses meeting the Program criteria.
- **Moderately Priced Dwelling Unit (MPDU) Requirement (Affordable housing)** - The requirement to provide a certain percentage of Moderately

Priced Dwelling Units (MPDUs) applies to any new development in Montgomery County with 20 or more dwelling units. This requirement applies even if the development is phased in over time. The law specifically requires a developer to identify all land in the County that the developer owns or is suitable for development, so that the law cannot be circumvented by breaking a development up into separate developments of 19 units or fewer.

The percentage of MPDUs required varies from 12.5% to 15% of the total number of units in the development, with the actual percentage for any particular development based upon the density bonus achieved. Developments that receive no density bonus are still required to provide 12.5% of the total number of units as MPDUs. Developers should recognize that affordable housing is a priority objective of the County, and are encouraged to provide more than the minimum number of units required, where economically viable.

The actual percentage and number of MPDUs required is set by the Montgomery County Planning Board at the time it approves the preliminary plan and/or site plan for the development. Please contact the [Maryland-National Capital Park and Planning Commission](#) (M-NCPPC) for information on the development review and approval process. In addition, please review the [site plan guidelines](#) for developments with MPDUs.

NOTE: The actual laws implementing the MPDU program in Montgomery County are found in Chapter 25A (the Moderately Priced Housing Law) and Chapter 59 (the Zoning Ordinance) of the Montgomery County Code, 2004, as amended. This summary is intended to supplement those sources - please refer to these laws to fully reference and understand the requirements of the MPDU program. The Montgomery County Code can be referenced online [here](#).

- **Work Force Housing** - The Workforce Housing law applies to developments in certain high density, transit-oriented zones in the County. This includes the Wheaton CBD. The purpose of the program is to promote the construction of housing affordable to households with incomes at or below 120% of the area-wide median income. The law requires developers of projects with 35 units or more, and which are located in METRO Station Policy Areas in the County, to provide 10 percent of the units as Workforce Housing units. In addition, when the County makes county-owned land available for residential development through a competitive process, it requires that a Workforce Housing component be included. For additional information please refer to Chapter 25B., Housing Policy, Article V. of the Montgomery County Code and COMCOR 25B.24.01 Workforce Housing Program Regulations.

Additionally, Developers proposing the inclusion of METRO-owned properties, or properties adjacent to METRO, for development (See Section IV, Publicly-Owned Properties for Development, Group B) must also comply with the following:

- **METRO Joint Development and Policies Guidelines** - This RFQ is issued in accordance with METRO Joint Development Policies and Guidelines, (revised November 20, 2008) as they may be amended from time to time. For additional information go to METROOpensDoors.com
- **Metro Mandatory Requirements** - Listed in Appendix C hereto

X. Evaluation Criteria

Submissions to this RFQ will be reviewed and evaluated by the Public Team's Qualification and Selection Committee ("QSC"). The QSC will be comprised of representatives of the Public Team:

- Montgomery County - (relevant offices)
- METRO (relevant offices);
- M-NCPPC - Montgomery County Office of Parks

Upon receipt of Submissions, the QSC will:

1. Review and evaluate all Submissions received by the deadline, in accordance with the Phase I submission requirements and Phase I Evaluation Criteria.
2. Short-list Developers receiving the highest ratings, based on Phase I Evaluation Criteria.
3. Invite short-listed Developers to submit information required for Phase II Evaluation
4. Review and evaluate Phase II Submissions received by the deadline.
5. Conduct interviews with Developers receiving the highest evaluations
6. Select the most qualified Developer

The QSC's decisions and recommendations will be consensus-based. The Public Team's goal is to select the most qualified Developer that best meets the Public Team's goals for redevelopment of the Wheaton CBD. The designation of a Selected Developer will be based on: the quality, clarity and thoroughness of the Submission and its compatibility with the RFQ's stated objectives and goals, submission requirements, the results of information gathered from interviews with Developers, and reference checks. Evaluation criteria are as follows:

For Phase I Evaluation Criteria

A. Background Information, Experience and Past Performance	50 points
B. Experience and Capacity for Land Aggregation	25 points
C. Conceptual Approach and Methodology	10 points
D. Vision	10 points
E.. Retail Business Retention	<u>5 points</u>

Phase I Total: 100 points

For Phase II Evaluation Criteria

A. Responsiveness of the Developer's project vision	35 points
B. Experience and expertise to implement project vision, including the retention of viable, locally-owned small businesses	35 points
C. Financial capability, including equity commitment, and ability for land aggregation as an element of the Developer's project vision	45 points
D. Developer's demonstrated financial capability and financial capacity to implement the project vision	65 points
E. Developer's commitment and duration of Project participation (Long-Term Investment)	10 points
F. Candidate interviews	<u>10 points</u>

Phase II total : 200 points

Note that the designation of a Selected Developer does not convey property rights, and the RFQ process described in this solicitation requires the execution of certain documents, with approvals according to the processes of each member of the Public Team.

XI. Administration of the RFQ

SUBMISSIONS ARE DUE BY 4:00 P.M. ON FRIDAY, MARCH 19, 2010.

Any amendments to the RFQ will be posted on the Montgomery County Department of General Services' website, which can be located through the County's website at:
<http://www.montgomerycountymd.gov/content/DGS/DBDC/dgs-neighborhood-projects-page.asp>

The Public Team expects the RFQ process to meet the following schedule, but reserves the right to amend this schedule or, in its sole discretion, to cancel the solicitation at any time.

RFQ Release:	Friday, January 15, 2010
Pre-Submission Meeting and Optional Site Tour:	Tuesday, February 2, 2010
2424 Reddie Drive Wheaton, MD, 1st Floor Conference Room Time: 10:00 A.M.	
Deadline for Questions Time: 4:00 P.M.	Friday, February 12, 2010

Responses to Questions
Time: 2:00 P.M.

Wednesday, February 17, 2010

Phase I Submissions Due

Friday, March 19, 2010, 4:00 PM

Selection of “Short-listed” Candidates for
Phase II Submissions*

Wednesday, April 14, 2010♦

Specific Due Dates for Phase II Submissions, Candidate interviews, and RFQ Selection(s)* will be provided to “Short-listed” Candidates.

*** May be subject to Public Team Board Approval**

♦Tentative date

XII. Submission Instructions

All Submissions shall include one (1) original and ten (10) copies in 8½” by 11” format with no smaller than 11-point font and should be no greater than 50 pages. Submissions must be bound and sealed, and must be mailed or delivered to:

Peter McGinnity
Manager, Business Development
Wheaton Redevelopment Program
2424 Reddie Drive, Suite 220,
Wheaton, Maryland 20902

Electronic Files - One copy of the entire submission must be provided in PDF format on a CD-ROM as one single file.

The envelope must state “Request for Qualifications, Wheaton Redevelopment.” Written submissions will be evaluated upon only what is submitted, and it is incumbent upon the Developer to submit sufficient information to enable the Public Team to fully evaluate the Developer’s capabilities and experience. Submissions to this RFQ received after the date and time specified are considered late and may not be considered. The Public Team will not accept fax submissions or submissions sent via e-mail. Unless requested by the Public Team, additional information cannot be submitted by the Developer after the deadline set for receipt of submissions. Developers will be notified in writing of any change in the specifications contained in this RFQ.

By submitting a response to this RFQ, the Developer agrees that its submission may not be modified, withdrawn or canceled by the Developer for one hundred twenty (120) days following the time and date designated for the receipt of Submissions in this RFQ or in any amendments hereto.

Prior to the time and date designated for receipt of Submissions, early Submissions may be modified or withdrawn only by notice to the Public Team. Timely modifications or withdrawals of a Submission must be in writing and must be received by the Public Team on or before the date and time set for receipt of submissions.

If a Non-binding Letter of Intent or other form of agreement acceptable to the Public Team cannot be successfully negotiated with the top-ranked Developer, the Public Team may proceed to negotiate with the Developer that submitted the next highest ranked submission. Alternatively, and in the Public Team's discretion, until an initial Non-binding Letter of Intent is entered into, the Public Team may elect to negotiate with more than one Developer at a time.

XIII. Optional Pre-Submission Meeting & Tour

There will be an optional pre-submission meeting on **Tuesday, February 2, 2010**. The meeting will begin at 10:00 a.m. in the Large Conference Room of the Mid-County Regional Services Center, located at 2424 Reddie Drive, Wheaton, Maryland. An optional walking tour of the Wheaton CBD will take place immediately following the meeting.

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APPENDIX A

DEFINITIONS

Compact Public Hearing. A public hearing required by the METRO Compact.

CBD. Central Business District

The County. Montgomery County, Maryland

Concept Plan. The plan created by the Selected Developer in conjunction with Public Partners and Stakeholders detailing the development to occur. May also be referred to as the Selected Developer Plan

FTA. Federal Transit Administration

Joint Development. A program in which METRO engages with the private sector in developing any or all of the sites offered in this RFQ.

LEED. Leadership in Energy and Environmental Design is an ecology-oriented building certification program run under the auspices of the U.S. Green Building Council (USGBC).

LOI. Letter of Intent

MDOT. The Maryland Department of Transportation

METRO. The Washington Metropolitan Area Transit Authority

M-NCPPC. The Maryland National Capital Park and Planning Commission

PLD. Parking Lot District

Project Team. The lead developer plus any other developers and key team members such as architects, engineers, economists, contractors, bankers, etc.

Project Team Developers. The lead developer and any other developer members of the Project Team

Public Team. Montgomery County Maryland, METRO, and Maryland-National Capital Park and Planning Commission

RFQ. Request for Qualifications

QSC. Qualifications and Selection Committee – Members of the Public team that will review and evaluate Submissions to this Request for Qualifications in order to choose a Selected Developer.

Selected Developer. The Developer selected by the Public Team’s Qualification and Selection Committee (QSC) as a result of the RFQ process that executes a Letter of Intent, and is approved according to the policies of the relevant Public Team member(s).

Site. Property or properties described in this RFQ and proposed for development by the Selected Developer.

Stakeholders. Members of the Wheaton community – residents, business owners and property owners having a direct or indirect interest in the redevelopment and revitalization of Wheaton.

Submissions. Responses submitted by developers to the Request for Qualifications (RFQ)

Submission Deadline. The Deadline for submitting a response to the Request for Qualifications

TOD and Transit Oriented Development. TOD developments are walkable, mixed-use communities that integrate transit facilities and reduce auto dependency. TOD should also facilitate pedestrian/bicycle access to transit, improve community safety and security, enhance ridership, and generate revenue for the public and private sectors. TOD communities are typically of higher density when compared to other communities more remote from transit facilities. They should create an attractive sense of place.

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APPENDIX B

ECONOMIC INCENTIVE PROGRAMS

The following are summaries of Economic Incentive Programs. The summaries are believed to be accurate but their accuracy is not warranted. The Developer should make an independent investigation of the terms and applicability of any Economic Incentive Programs.

- **Enterprise Zone Program & Benefits:** The Enterprise Zone is an economic development program established by the Maryland General Assembly to provide tax incentives to eligible businesses locating or expanding their facilities within designated zones. The Wheaton Enterprise Zone, designated by the State of Maryland on June 15, 2009, is comprised of approximately 485 acres encompassing the Wheaton Urban District and the Wheaton Central Business District. Program benefits include:
 - **Montgomery County Impact Tax Waiver** - School and Transportation Impact Taxes do not apply in state-designated enterprise zones.
 - **Real Estate Property Tax Credits** - For either a new or an expanding business that meets the eligibility requirements, the amount of the credit is 80% of the taxes due on any expansion, renovation or capital improvement in the property over the first five years. For the subsequent five years, the credit decreases 10% annually (70%, 60%, 50%, 40%, 30%). After ten years of property tax credits, the property is returned to the tax rolls at its full assessed value. Properties must be certified for eligibility prior to claiming the tax credit
 - **Income Tax Credits for new job creation** - Businesses in an enterprise zone may be eligible to receive incentives to hire additional, full-time workers. The incentives are credits against Maryland business income taxes. These credits are more valuable than deductions because credits are subtracted directly from income tax liability.
 - **WSSC Systems Development Charge Exemption*** - Provides full or partial exemptions from WSSC Systems Development Charges (SDC) for revitalization projects in state-designated enterprise zones. Up to \$50,000 may be allowed for each individual project, subject to an annual program maximum set by WSSC.

*A signed MOU between the WSSC and property owner is required for a qualified project to be eligible for the SDC credit.

- **Wheaton Arts and Entertainment District (A&E):**
 - **Real Estate Property Tax Credits** - A 10 year tax credit reduces the increase in County property tax that occurs when a property tax assessment increases after the construction or renovation of a building. The credit applies to manufacturing, commercial, or industrial buildings

constructed or renovated for use by a Qualifying Residing Artist or an A&E Enterprise. The credit for the first five years is 80% of the taxes due on any expansion, renovation or capital improvement in the property over the first five years. The credit declines 10% in each of the following five years, and becomes zero after the tenth year. Properties must be certified for eligibility prior to claiming the tax credit.

- **Income Tax Subtraction Modification** - The State of Maryland will provide an income tax subtraction for a qualifying residing artist. A qualifying residing artist may subtract from federal adjusted gross income the amount of income derived within the Wheaton Arts and Entertainment District from the publication, production, or sale of an artistic work that the artist wrote, composed, or executed within the District. A “qualifying residing artist” is an individual who owns or rents residential real property in the Montgomery County, or in the designated A&E Entertainment District, conducts an arts or entertainment business in the District, and derives income from the sale or performance within the District of an artistic work that the individual wrote, composed, or executed wholly or primarily within the District, either solely or with one or more individuals.
- **Arts & Amusement Tax Exemption.** - Gross receipts from any admissions and amusement charge levied by an arts and entertainment enterprise or qualifying residing artist in an Arts and Entertainment district designated under state law are exempt from Arts and Amusement Taxes. The tax is levied by the state, while local jurisdictions determine the rate. The current rate in Montgomery County is 7%.
- **Green Building/Clean Energy Incentives:** Montgomery County Code, Chapter 52, Taxation, Sec. 52-18Q provides for County property tax credits for certain buildings that meet certain standards (LEED Certification) for energy and environmental design.
 - **Green Building Property Tax Credit** - Property tax credits are available for a “High Performance Building” based upon the rating it receives from the USGBC or an equivalent energy and environmental design standard, as determined by the Montgomery County Department of Permitting Services. To be eligible for a tax credit, a newly constructed or extensively modified non-residential or multi-family residential building that has at least 10,000 square feet of gross floor area must achieve a LEED gold or platinum rating (or equivalent) from the USGBC, and any other building must receive a silver, gold, or platinum rating from the USGBC. Tax credits may range from 75% to 10 % for three to five years, depending upon the rating (silver, gold, etc.) received. For further information, please visit:
www.montgomerycountymd.gov/content/finance/countytaxes/Green_Buildings_Tax_Credit_Application.pdf

- **Energy Conservation and Renewable Energy Property Tax Credit** - Property tax credits are available for the installation of energy conservation measures or renewable energy devices. The tax credit for energy conservation measures is equal to the cost of the measure with a cap of \$250 per property annually. The credit for a renewable energy device is equal to 50% of the defined eligible cost of the device with a cap of \$5,000 for a heating or electricity generating system, or \$1,500 for a hot water supply system. The total of all credits granted annually by the County must not exceed \$250,000 for Renewable Energy Devices or \$250,000 for Energy Conservation Devices. Credits will be granted in the order in which complete applications are received by the Department of Finance. For details see:
www.montgomerycountymd.gov/content/finance/countytaxes/Renewable_Energy_Tax_Credit_Application.pdf
- **Community Investment Tax Credits** - This Program fosters nonprofit and private sector partnerships by providing incentives for businesses to support community projects. After approval, businesses may purchase State income tax credits from non-profit organizations that are certified to do so. For more information visit:
<http://www.neighborhoodrevitalization.org/Programs/CITC/CITC.aspx>
- **Priority Funding Area Job Creation Tax Credit** - Maryland's Job Creation Tax Credit program provides income tax credits to businesses that create new jobs. A business that locates or expands in a Priority Funding Area must only create a minimum of 25 new positions to qualify for the Job Creation Tax Credit. In most cases, the credit is 2.5 percent of annual wages for all newly created, full-time jobs, subject to a limit of \$1,000 per new job. In an Enterprise Zone, the credit is increased to five percent of annual wages for all newly created full-time jobs, subject to a limit of \$1,500 per new job. The credit earned by a qualified business entity may not exceed \$1 million per credit year.
- **New Jobs Tax Credit** - Montgomery County offers a real and personal property tax credit for businesses meeting the following criteria:
 - Re-locate or expand into at least 5,000 square feet of newly constructed or previously unoccupied premises. AND
 - Employ at least 25 individuals in new permanent full-time positions, within a 24-month period in the new or expanded premises.

Qualifying businesses will receive a Montgomery County tax credit against real and personal property taxes for a period of six years. The tax credit per year equals the following percentages of the tax imposed on the assessment of the new or expanded premises: 52% during the 1st two taxable years, 39% during the 3rd and 4th taxable years, and 26% in the final two taxable years.

In addition, a qualifying business will also receive a State of Maryland tax credit for a period of six years, which is applied against individual or corporate income tax, insurance premiums tax, or financial institution franchise tax. The State credit is equal to a percentage of the amount of property tax imposed on the assessment of the new or expanded premises as follows: 28% in the 1st two taxable years, 21% during the 3rd and 4th taxable years, and 14% in the final two taxable years.

- **Enhanced New Jobs Tax Credit** - An enhanced real and personal property tax credit is available for large businesses generating or creating major economic impacts in Montgomery County. The criteria for the enhanced tax credit are:

For businesses relocating to Montgomery County:

- Purchase or lease (and relocate into) at least 250,000 square feet of newly constructed or previously unoccupied premises.
- Employ at least 1,250 individuals in new permanent full-time positions, paying at least 150% of the federal minimum wage, at the new premises.

For business expanding within Montgomery County:

- Purchase, lease, or build (and relocate or expand into) at least 250,000 square feet of newly constructed or previously unoccupied county premises.
- Continue to employ at least 2,500 individuals in existing permanent full-time positions, paying at least 150% of the federal minimum wage.
- Employ at least 500 individuals in new permanent full-time positions, paying at least 150% of the federal minimum wage and located in the new premises.

Qualifying businesses will receive a 12-year tax credit equal to 58.5% of the amount of the property tax imposed on the increase in assessment of:

- The new or expanded premises.
- Newly renovated real property improvements adjoining or otherwise neighboring the new or expanded premises.
- The personal property located on the new or expanded premises, or adjoining renovations.

In addition, qualifying businesses will also receive a State of Maryland Tax Credit equal to 31.5% of the amount of County property tax imposed on the increase in assessment of the real property. The credit will be granted for the first 12 taxable years after the business qualifies for the Enhanced New Jobs Tax Credit and the credit can apply towards individual state individual or corporate income tax, insurance premiums tax, or financial institution franchise tax.

- **Green Tape Zone** - Green Tape Zone designation provides for a County team that gives projects in the Wheaton CBD special priority in reviews and inspections. A Green Tape Team handles requests for assistance with the Fire Marshal, Liquor Control/License Commissioners, Building and Electrical Permits, Zoning, and the Public Health Services/Food Services unit.

Pre-application assessment inspections provide potential owners/tenants with information about the suitability of a building space for their intended use. New businesses now have a better chance to determine the likelihood of a successful start in downtown buildings as a result of these inspections.

- **Special Project Financing** - There are five financing capabilities offered through the Maryland Economic Development Assistance Authority and Fund (MEDAAF), with assistance being provided to the business community and political jurisdictions. To qualify for assistance from MEDAAF, applicants are restricted to businesses located within a priority funding area and an eligible industry sector. With a few exceptions, assistance cannot exceed 70 percent of the total project costs. Subject to project specifics, assistance may be made directly to an applicant or through the local governing authority (the County).
- **Workforce Investment Services** – The Montgomery County Department of Economic Development, through its Division of Workforce Investment Services, works closely with employers to identify their workforce needs, locate qualified candidates for jobs, and help develop employment and training programs that help companies succeed.
- **Transit Benefits for Employers** – The Montgomery County Department of Transportation provides a variety of programs to assist employers in efforts to hire and retain the region's best employees while reducing traffic congestion. For more information on available programs visit:
<http://www.montgomerycountymd.gov/tcotmpl.asp?url=/content/DOT/transit/commuter/page1.asp>

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APPENDIX C

METRO MANDATORY REQUIREMENTS

METRO'S Non-Negotiable Requirements and Conditions:

The following requirements and conditions are non-negotiable and the concepts will be included in the Sales and/or Lease Agreement and final documentation executed by the Selected Developer and METRO. By responding to this RFQ, a Developer is agreeing to accept and comply with these non-negotiable requirements and conditions.

- 1. Reserved Areas and Interests:** The location of METRO's Reserved Areas and Interests shall be determined by METRO in its sole and absolute discretion. Additionally, the conveyance or lease of any METRO property shall be subject to a reservation by METRO of permanent, exclusive and irrevocable easement(s) necessary for the operation and maintenance of present and future METRO Facilities, METRO Improvements and METRO Reserved Areas and Interests, including but not limited to easements for vertical and horizontal support, access and utilities.

2. METRO'S Approval Rights and Adjacent Construction Requirements:

- A. Approval Rights:** METRO shall have the right to approve in its sole and absolute discretion:

1. Matters that affect the integrity, functionality, efficiency, safety, operation, maintenance, legal compliance, cost or profitability of METRO'S business, customers, operations or activities;
2. Matters that affect METRO Facilities, METRO Replacement Facilities, METRO Reserved Areas and Interests, ingress/egress to METRO Facilities, etc.;
3. Matters that affect any of METRO's adjacent property;
4. The design and construction of interim and permanent METRO Replacement Facilities; and
5. Matters that affect the Selected Developer's obligations as they relate to timing (changes in project schedule) and performance (changes in what will be constructed, i.e., the product mix).

- B. METRO's Comment Rights:** METRO shall have the right to comment on the development plan/site plan and on other matters not covered by Section 2A above related to METRO Facilities, METRO Improvements, or METRO Reserved Areas and Interests. The Selected Developer shall be

obligated to consider METRO's comments and to respond reasonably.

- C. METRO's Construction Requirements:** In order to avoid adverse impact on METRO Facilities, projects must be built in compliance with METRO's adjacent construction criteria as contained in METRO's Adjacent Construction Project Manual, Revision 3 and as further revised, and METRO's Manual of Design Criteria (Release 9 and as further revised), which are available by calling 202-962-2108 to be directed to the Joint Development Coordinator. Additionally, Selected Developers must comply with METRO's requirements for the relocation and maintenance of operations during construction, which include the uninterrupted and unimpeded operation of METRO Facilities, including revenue collection. METRO will review and approve Selected Developer plans in accordance with established METRO procedures.
- 3. Relocation or Replacement of METRO Facilities:** If a project requires the relocation or replacement of any METRO Facility, on a permanent or interim basis, the Selected Developer shall provide such interim or permanent replacement facilities at its sole cost. No METRO Facility may be taken out of service unless a permanent or interim replacement facility is already available, such that there will be no disruption to METRO operations. Any exception to this requirement is subject to the specific approval of the METRO Board of Directors. METRO shall own and operate any permanent relocated or replaced METRO Facility. Additionally, the configuration of the interim, relocated, or replaced METRO Facility must be agreed to by METRO in writing.
- 4. Selected Developer's Funding of METRO Compact Public Hearing:** A change in METRO Facilities (including parking) may trigger a public hearing requirement under the METRO Compact. The Selected Developer will be required to fund the costs of the Compact Public Hearing, and to that end will deliver Twenty-five Thousand Dollars (\$25,000) to METRO no less than 60 calendar days prior to the date of the Compact Public Hearing. If METRO's actual costs are less than the aforesaid amount, METRO will credit the remaining funds to any amount that it is owed by the Selected Developer.
- 5. No Subordination of METRO's Fee Interest:** METRO will not subordinate its fee interest in its property. In a lease situation, METRO will permit lenders to have a leasehold security interest in the Selected Developer Improvements of the project, which security interest will be subordinate to METRO's right to terminate the lease upon a default by the Selected Developer (subject to the lender's right to cure).
- 6. Federal Transit Administration (FTA) Requirements:** METRO is subject to the requirements of the FTA. The terms of the Sales and/or Lease Agreement negotiated with the Selected Developer, as it pertains to METRO property, are subject to FTA approval. While FTA may impose additional requirements which

cannot be known until FTA reviews a specific project, FTA requires that the Selected Developer comply with certain laws and regulations barring discrimination on the basis of race, color, national origin or disabilities; and further requires compliance with FTA requirements regarding conflicts of interest and debarment.

- 7. Americans With Disabilities Act (ADA):** All projects shall be constructed in compliance with Titles II and III of the Americans with Disabilities Act, 42 USCA Section 12101, et seq., as amended, and any regulations promulgated thereunder. Proposals must include a plan indicating how access from the project to the METRO station will be provided for persons with disabilities. Additionally, if a project or any subsequent addition, modification or alteration triggers ADA improvements to the METRO station, the Selected Developer shall be responsible for the costs of such improvements. The only exception is when the ADA improvements are required to be made by METRO regardless of the project.
- 8. Direct Connections:** If a direct connection to a METRO station is part of the overall project, then the FTA may determine that the National Environmental Policy Act, 42 USCA 4321, et seq., as amended, is applicable to the project. Additionally, the following laws and their implementing regulations are also applicable to a direct connection:

 - A. Rehabilitation Act of 1973, 29 USCA Section 794;
 - B. Architectural Barriers Act, 42 USCA Section 4151, et seq.; and
 - C. Planning and Design for the Elderly and Handicapped, 49 USCA Section 5301, et seq.
- 9. Davis-Bacon Act/Fair Labor Standards Act:** Any METRO Replacement Facility or METRO Improvement must be built in compliance with the Davis-Bacon Act, 40 USC Section 276a, et seq., and overtime compensation must be paid in compliance with Section 64 of the METRO Compact, and the Fair Labor Standards Act, 29 USCA Section 201, et seq. (1978), as amended.
- 10. Other Laws, Regulations and Requirements:** Selected Developers are responsible for being fully informed of, and complying with, the requirements of applicable federal, state and local jurisdictional laws and regulations. Additionally, the Selected Developer shall be responsible for obtaining, at its own cost and expense, all requisite approvals, licenses and permits.
- 11. METRO's Indemnification Policy:** The terms of any Development Agreement and final documentation will require that the Selected Developer and its contractors and subcontractors (and subtenants, where applicable) indemnify METRO against all claims, liabilities and costs of whatsoever kind and nature including environmental claims which may be imposed upon, or incurred by, or asserted against METRO in connection with the Selected Developer's

performance under the Sales and/or Lease Agreement or related agreements.

- 12. METRO's Insurance Requirements:** The terms of any Sales and/or Lease Agreement and final documentation will require that the Selected Developer, its contractors and subcontractors procure and maintain insurance coverage in amounts determined by METRO, which may include, but is not limited to: General Liability, All Risk Property, Builder's Risk, Worker's Compensation, Automobile Liability, Contractors' Pollution Legal Liability, Railroad Protective Liability, Rental Value Insurance, Professional Errors and Omissions Liability and Boiler and Machinery (during operations only).
- 13. Payment, Performance and Completion Bonds:** METRO requires that the Selected Developer secure and file with METRO a payment bond equal to 100% of the value of each phase of the project from a federally approved surety company, with sufficient assets. The payment bond must name METRO for the benefit of laborers, subcontractors, material suppliers and others that have or may have claims or liens against the project or the realty.

METRO also requires the Selected Developer to secure and file with METRO a performance bond equal to 100% of the value of each construction phase of the project from a federally approved surety company, with sufficient assets and which bond names METRO for the completion of the planned construction in that phase.

Additionally, if there are METRO Replacement Facilities being constructed, METRO requires the Selected Developer to secure and file with METRO a completion bond equal to 100% of the value of the METRO Replacement Facilities from a federally approved surety company, with sufficient assets, and which bond names METRO as the sole obligee for the completion of the Replacement Facilities.

All bonds must be in a form acceptable to METRO and countersigned by a resident agent of the surety for the jurisdiction in which the Joint Development site is located, with a copy of the agent's license, as issued by the appropriate Insurance Commissioner.

- 14. METRO's Disclaimer of Liability:** METRO disclaims all responsibility and liability for the completeness or accuracy of any information that it provides.
- 15. Inspection of Accounting Records:** The Selected Developer will be required to permit METRO, or any of its duly authorized representatives, at reasonable times and places, access to any books, documents, papers and records, including certified financial statements, which are directly pertinent to the Development Agreement. METRO shall be permitted to audit, inspect, examine, copy and transcribe such books, documents, papers and records. The Selected Developer shall retain all records for three years after submission of any statement required

for determining any payment obligations under the Sales and/or Lease Agreement or related agreements.

- 16. METRO's Tax Exempt Status:** METRO is tax exempt pursuant to the METRO Compact. Any taxes, assessments or impositions on the project or the real estate shall be assumed by the Selected Developer. In no event shall the Selected Developer assert or attempt to assert for its own benefit, an exemption or immunity available to METRO under the METRO Compact.
- 17. Financing Requirement:** The Selected Developer shall be obligated to obtain the requisite financing to consummate the lease/sale of the METRO Joint Development Site, and the development, construction and final completion of the project by a reasonable date certain, or METRO may terminate the Sales and/or Lease Agreement.

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APPENDIX D
BACKGROUND MATERIALS

1. 2000 - Wheaton Redevelopment Concepts – Scenarios for the Wheaton CBD
2. 2004 - Wheaton METRO Station Area Pedestrian Study (Maryland Dept. of Transportation/Kittelson & Associates, Inc.)
3. 2005 - Vision for Wheaton –Town Meeting
4. 2007 - International Downtown Association Report
5. 2007 - International Downtown Association PowerPoint
6. Wheaton CBD Sector Plan Update (M-NCPPC)
7. 2009 - Urban Land Institute Technical Assistance Panel
8. Bay Area Economics Wheaton Urban District Market Analysis

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APPENDIX E

METRO Self Certification – Business Ethics

Self-Certification for Prospective Developers

The offeror hereby certifies to the best of its knowledge and belief that it, any principal of the offeror, any member of the offeror (including a principal of any member that is an entity):

1 is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from award of contracts by any governmental entity.

2 has not within the past ten years been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a contract or subcontract with a governmental entity; violation of antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating criminal tax laws, or receiving stolen property;

3 is not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the previous paragraph;

4 is not in arrears or in default of payment of any money or obligation of a value greater than \$3,000 due a governmental entity;

5 has no adjudicated violations nor has paid penalties during the past ten years relating to the housing and building laws, regulations, codes and ordinances of any governmental entity; and

6 during the past ten years has not had a license revoked that was issued in accordance with the housing, building or professional licensing laws, regulations, codes and ordinances of any governmental entity.

“Principal” means an officer, director, owner, partner or other person with management or supervisory responsibilities or otherwise in a position to control or significantly influence the offeror’s activities or finances.

An offeror that is unable to certify to the statements in this certification shall attach an explanation to this proposal. An offeror that fails to execute this certification or fails to provide adequate information for WMATA to evaluate its inability to certify to the statements in this certification may be ineligible for award.

This certification is a material representation of fact upon which reliance will be placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to WMATA, WMATA may in its discretion terminate the contract resulting from this solicitation for default. The offeror shall provide immediate written notice to WMATA if at any time it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Signature:

Title:

Date:

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